IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.336 OF 2003

M/s.Goyal Properties & Estates
P. Limited .. Appellant.
V/s.
The Dy. Comm. of Income-tax
Special Gange 33 .. Respondent.

Mr.V.H. Patil with Ms.Asifa Khan i/b. Ms.Jyoti Dialani for the appellant.
Mr.R.V. Desai, Senior counsel with Ms.S.V. Bharucha i/b. P. Kapur for the respondent.

CORAM : R.M. LODHA, &
J.P. DEVADHAR, JJ.

DATED : 16H OCTOBER, 2004.

P.C. :

Heard Mr.V.H. Patil, the learned counsel for the appellant - assessee.

2. From the facts which have come on record it cannot be said that the liability concerning 11 flats from Malad project which were to be alloted to the nominees of the ULC authorities was an accrued liability. The fact is that the 11 flats from Malad project which the assessee agreed to allot to the nominees of ULC authorities were not alloted. Instead the assessee claims to have agreed to allot the 11 flats now from Dahisar project. The said project had not even commenced. In the backdrop of

these facts the Tribunal cannot said to have erred in holding that liability concerning 11 flats was a contingent liability.

3. The consideration of the matter by the Tribunal is concluded on facts and cannot be said to suffer from any legal infirmity.

4. The judgment of the Supreme Court in the case of Calcutta Company Limited V/s. Commissioner of Income-tax, West Bengal [XXXVII ITR 1] does not apply to the facts of the present case.

5. No substantial question of law arises in this appeal. The appeal is dismissed in limine.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)